HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.9520 of 2007

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Between:

Smt. D. Saraswathi …Petitioner.

And

The Municipal Corporation of Hyderabad,
represented by its Commissioner,
Hyderabad and three others. ….Respondents.

:: O R D E R ::

Counsel for the petitioner : Sri S. Ramachandra Prasad

Counsel for respondent Nos.1 to 3 : Smt. Kalpana Ekbote

1st May, 2007

Per G.S. SINGHVI, C.J.

In this petition, the petitioner has prayed for issue of a mandamus

to respondent Nos.1 to 3 to stop the construction being made by respondent No.4 in premises bearing No.11-3-357/20/4 comprised in Survey No.25 situated at New Santosh Nagar, Parsigutta, Zamistanpur, Secunderabad.

The aforesaid prayer of the petitioner is founded on the assertion contained in her affidavit that she has purchased a portion of the premises in question from respondent No.4 and after selling the land to her, respondent No.4 started construction of building in violation of the sanctioned plan. Her grievance is that despite written representations made to the authorities of the Municipal Corporation, Hyderabad, no action has been taken to stop the construction being raised by respondent No.4.

We have heard Sri S. Ramachandra Prasad, learned counsel for the petitioner. In our opinion, the writ petition is liable to be dismissed summarily because,

i) the petitioner has not produced any documentary evidence to substantiate her assertion that respondent No.4 has sold a portion of the disputed premises to her;

ii) the petitioner has not produced copy of the permission given to respondent No.4 by the competent authority of the Municipal Corporation for construction of building and copy of the sanctioned plan, and without going through these documents, it is not possible for the Court to record a finding that the disputed construction is contrary to the sanctioned plan and/or permission, and

iii) an effective alternative remedy is available to the petitioner by way of civil suit. The question whether the construction being raised by respondent No.4 is contrary to the sanctioned plan or permission given by the

competent authority can appropriately be adjudicated by a civil court where the parties can lead oral and documentary evidence. Therefore, we do not see any reason or justification to entertain the writ petition.

With the above observations, the writ petition is dismissed leaving the petitioner free to avail the remedy by filing civil suit.

As a sequel to dismissal of the writ petition, WPMP. No.12126 of 2007 filed by the petitioner for issue of an interim order to respondent Nos.1 to 3 to demolish the construction being made by respondent No.4 is also dismissed.

G.S.SINGHVI, C.J.

1st May, 2007

C.V.NAGARJUNA REDDY, J.

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